THE MYSORE TRAMWAYS ACT, 1906.

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(*Preliminary*)

MYSORE ACT No. II OF 1906.

THE MYSORE TRAMWAYS ACT, 1906.

(*As amended by Act No. X of 1916.*)

(PASSED ON THE 7TH DAY OF JULY 1906).

An Act to facilitate the Construction and to regulate the Working of Tramways in [1][the State of Mysore except Bellary District.]

WHEREAS it is expedient to facilitate the construction and to regulate the working of Tramways in [1][the State of Mysore except Bellary District]; His Highness the Maharaja is pleased to enact as follows:—

PRELIMINARY.

Short title and commencement.

1. (1) This Act may be called the Mysore Tramways Act, 1906; and

(2) It shall come into force at once.

Local extent.

2. It extends to the [1][whole of the State of Mysore except Bellary District].

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "local authority" means a municipal committee, district board, or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund;

(2) "road" means the way of a road, street, thoroughfare, passage or place along or across which a tramway authorised under this Act is, or is intended to be laid, and includes the surface-soil and sub-soil of a road, and the footway, bermes, drains and ditches of a road, and any bridge, culvert or causeway forming part of a road;

(3) "road authority," in relation to a road, means—

(*a*) if a local authority maintains and repairs the road, then that authority;

1. See the Mysore Adaptation of Laws Order, 1958.

(*b*) if a local authority does not maintain and repair the road, and the road is neither vested in nor maintained and repaired by the Government, then the person in whom the road is vested; and

(*c*) if a local authority does not maintain and repair the road, and the road vested in or maintained and repaired by the Government, then the Government;

(4) "circle," in relation to a local authority or road-authority, means the area within the control of that authority;

(5) "tramway" means a tramway, or any part of a tramway, or any siding, turn-out, connection, line or track belonging to a tramway;

(6) "order" means an order authorising the construction of a tramway under this Act, and includes a further order substituted for, or amending, extending or varying, that order;

(7) "promoter" means a local authority or person in whose favour an order has been made, and includes a local authority or person on whom the rights and liabilities conferred and imposed on the promoter by this Act and by the order and any rules made under this Act as to the construction, maintenance and use of the tramway, have devolved;

(8) "undertaking" includes all movable and immovable property of the promoter suitable to and used by him for the purposes of the tramway;

(9) "carriage," in the case of a tramway on which steam-power or any other mechanical power is used, includes an engine worked on the tramway for the purpose of producing that power;

(10) "toll" includes any charge leviable in respect of the use of a tramway;

(11) "lessee" means a person to whom a lease has been granted of right of user of a tramway and of demanding and taking the authorised tolls;

(12) "District Magistrate" includes an officer empowered by the Government by name or by virtue of his office to discharge within any local area all

or any of the functions of a District Magistrate under this Act ;

(13) "District Court" means a principal Civil Court of original jurisdiction ;

(14) "Deputy Commissioner" means the chief officer in charge of the revenue administration of a district, and includes an officer empowered by the Government by name or by virtue of his office to discharge within any local area the functions of a Deputy Commissioner under this Act ; and

(15) "prescribed" means prescribed by rules made by the Government under this Act.

ORDERS AUTHORISING THE CONSTRUCTION OF TRAMWAYS.

Application for and consent necessary to making of order.

4. (1) The Government may make an order authorising the construction of a tramway in a circle on application made—

(*a*) by the local authority of the circle with the consent of the road-authority of any road or part of a road which is to be traversed by the tramway and of which the local authority is not itself the road authority; or

(*b*) by any person with the consent of the local authority of the circle, and of the road-authority of any road or part of a road which is to be traversed by the tramway and of which the local authority is not the road-authority.

(2) A local authority shall not make an application for an order, or be deemed to consent to an application being made by any person for an order, unless the making of the application or the giving of the consent has been approved by the local authority in manner prescribed.

Consent of local or road-authority not necessary in certain cases.

5. When it is proposed to lay a tramway in two or more circles, and a local authority or road-authority having control in either or any of the circles does not consent thereto, or attaches conditions to its consent, the Government may, nevertheless, make an order authorising the construction of the tramway in the circle, or by the order impose on the promoter any conditions which it deems fit,

if, after considering the reasons of the authority for withholding its consent or attaching the conditions thereto, it is satisfied that the construction of the tramway in the circle is expedient, or, as the case may be, that the conditions attached by the authority to its consent ought not to be imposed.

Procedure for making order.

6. (1) The Government on receiving an application shall consider it, and, if satisfied as to the propriety of proceeding thereon, publish in the official Gazette, and in such other manner as it deems sufficient for giving information to persons interested, a draft of a proposed order authorising the construction of the tramway.

(2) A notice shall be published with the draft stating that any objection or suggestion which any person may desire to make with respect to the proposed order will, if submitted to the Government on or before a date to be specified in the notice, be received and considered.

(3) If, after considering any objections or suggestions which may have been made with respect to the draft on or before the date so specified, the Government is of opinion that the application should be granted, with or without addition or modification, or subject or not to any restriction or condition, it may make an order accordingly.

(4) Every order authorising the construction of a tramway shall be published in the official Gazette in English and in Kannada; and that publication shall be conclusive proof that the order has been made as required by this section.

Contents of order.

7. (1) An order made under section 6 shall empower the promoter therein specified to construct and maintain the tramway therein described in the manner therein provided, and shall specify the time within which the tramway shall be commenced and the time within which it shall be completed and opened for public traffic.

(2) The order may also provide, in manner consistent with this Act, for all or any of the following among other matters, that is to say:—

(*a*) a period before the expiration of which the tramway shall not be commenced, and the conditions subject to which the local authority, when it is not itself the promoter, may, within that period,

elect to be substituted in the place of the promoter in respect of the undertaking or of so much thereof as is within its circle; and the limits of time within which, and the terms upon which, the local authority may after the tramway has been constructed, require the promoter to sell to it the undertaking or so much thereof as is within its circle;

(*b*) the acquisition by the promoter of land for the purposes of the tramway, and the disposal by him of land which has been acquired but is no longer required for those purposes;

(*c*) the conditions subject to which roads may be opened and broken up for the purposes of the construction or maintenance of the tramway or any part thereof, and the method of, and materials to be used in, the re-instating of the roads, and the approval of the method and materials by the Government or the road-authority before the commencement of the work;

(*d*) the conditions on which the tramway may be constructed over a bridge or across a railway or tramway when the carriageway over the bridge is to form part of the tramway or when the tramway is to cross a railway or another tramway on the level;

(*e*) the space which shall ordinarily intervene between the outside of the carriageway on either side of a road whereon the tramway is to be constructed and the nearest rail of the tramway, and the conditions on which a smaller space may be permitted;

(*f*) the gauge of the tramway, the rails to be used, and the mode in which and the level at which they shall be laid and maintained; and the adoption and application by the promoter of such improvements in the rails, and in their situation, and in the sub-structure upon which they rest, as the Government may from time to time require;

(*g*) the portion of the road or roads traversed by the tramway to be kept in repair by the promoter; the maintenance by the promoter, to the satisfaction of the Government or the road-authority, or both,

of that portion of the road or roads; and the liability of the promoter, on the requisition of the Government, from time to time to adopt and apply such improvements in the tramway as the Government may consider necessary or desirable for the safety or convenience of the public, and to alter the position or level of the tramway to suit future alterations in the road or roads;

(*h*) the application of material excavated by the promoter in the construction or maintenance of the tramway;

(*i*) the provision of such crossings, passing-places, sidings, junctions and other works, in addition to those specified in or authorised by the order, as may from time to time be necessary or convenient to the efficient working of the tramway;

(*j*) the powers which may from time to time be exercised by the Government, the local authority, the road-authority or any person in respect of sewers, drains, telegraph-lines, gas-pipes, water-pipes or other things in or on land occupied by the tramway; the notice (if any) to be given of the intended exercise of those powers; the manner in which the powers shall be exercised; and the extent to which the tramway and the traffic thereon may be interfered with in the exercise thereof;

(*k*) the conditions subject to which the promoter may from time to time interfere with or alter or require the alteration of the position of drains (not being sewers or main drains), telegraph-lines, gas-pipes, water-pipes, or other things as aforesaid;

(*l*) the provision of a temporary tramway in place of a part of a tramway which has been removed or of which the use has been discontinued, by reason of the execution of any work affecting a road along which the part of the tramway was laid or by reason of the use of the road being interrupted by floods or other cause;

(*m*) the motive power to be used on the tramway, and the conditions on which steam-power or any other mechanical power may be used;

(*n*) the nature, dimensions, fittings, appliances and apparatus of the carriages to be used on the tramway, and the inspection and examination thereof by officers of the Government or the local authority, and the liability of the promoter or lessee, on the requisition of the Government, from time to time, to adopt and apply such improvements in the carriages, and in the fittings, appliances and apparatus, as the Government may consider necessary or desirable for the safety or convenience of the public;

(*o*) the traffic which may be carried on the tramway, the traffic which the promoter or lessee shall be bound to carry, and the traffic which he may refuse to carry; the tolls to be leviable by the promoter or lessee, and the periodical revision thereof by the Government; and the regulation of the traffic and of the levy of the tolls;

(*p*) the use of the tramway free of toll by the local authority, with its own carriages, for specified purposes, during specified hours, with power to the local authority to make such sidings, and other works as may be necessary for communication between its premises and the tramway;

(*q*) the conditions subject to which the promoter may transfer the undertaking, or any part thereof, by sale, mortgage, lease, exchange or otherwise; and the conditions subject to which the local authority may be the transferee;

(*r*) the performance by the Government or by the local authority or road-authority of any work required by the Act or the order to be done by the promoter; and

(*s*) the penalty to be incurred by the promoter or lessee for failure to observe any condition or direction contained in the order, and the application of the penalty when recovered.

(3) The Government may, in providing in the order for the acquisition of land for the purposes of a tramway of which the promoter is not a company, direct that land may be acquired for the promoter under the provisions of the Mysore Land Acquisition Act, VII of

1894, in the same manner and on the same conditions as it might be acquired for the purposes of the tramway if a company were the promoter.

(4) The order shall imply the condition—

(*a*) in the case of a tramway of which a local authority is the promoter, that a lease thereof shall be granted only in manner by this Act provided ; and

(*b*) in the case of a tramway of which a local authority is not the promoter, that a lease thereof shall be only of the right of user and of demanding and taking the authorised tolls, and shall not confer or impose on the lessee any of the powers or duties of the promoter in respect of the construction or maintenance of the tramway.

Further order.

8. (1) The Government may, on the application of the promoter, revoke, amend, extend or vary the order by a further order.

(2) An application for a further order shall be made in the same manner and subject to the same conditions as an application for an order.

(3) The Government may, in its discretion, either grant or reject the application.

(4) If it grants the application, it shall make the further order in the same manner as an order, except that no addition to, or modification of, the rights, powers and authorities asked for in the application, or restriction or condition with respect thereto, shall be made or imposed by the further order without the consent in writing of the promoter.

Power to authorise joint work by local authorities.

9. (1) Subject to, and in accordance with, the provisions of this Act, the Government may, on a joint application, or on two or more separate applications, make an order empowering two or more local authorities, respectively, jointly to construct the whole, or separately to construct parts, of a tramway, and jointly or separately to own the whole or parts thereof.

(2) All the provisions of this Act which relate to the construction of tramways shall extend and apply to the construction of the whole and the separate parts of the

tramway, and the form of the order may be adapted to the circumstances of the case.

Cessation of powers given by an order.

10. (1) If a promoter authorised by an order to construct a tramway—

(*a*) does not within the time specified in the order substantially commence the construction of the tramway, or

(*b*) having commenced the construction, suspends it without a reason sufficient in the opinion of the Government to warrant the suspension, or

(*c*) does not within the time specified in the order complete the tramway and open it for public traffic,

the following consequences shall ensue :—

(i) the powers given by the order to the promoter for constructing the tramway and otherwise in relation thereto, shall, unless the Government, by special direction in writing, prolongs the time or condones the suspension, cease to be exercised except as to so much of the tramway as is then completed ;

(ii) as to so much of the tramway as is then completed, the Government may either permit, or refuse to permit, the powers given by the order to continue ;

(iii) if the Government refuses to permit the powers to continue, then so much of the tramway as is then completed may be dealt with, under the provisions of this Act relating to the discontinuance of tramways, as a tramway of the working whereof the discontinuance has been proved to the satisfaction of the Government.

(2) A notification published by the Government in the official Gazette to the effect that on a date specified in the notification the construction of a tramway had not been substantially commenced or a tramway had not been completed and opened for public traffic, or that the construction of a tramway had been suspended without sufficient reason, shall, for the purposes of this section, be conclusive proof of the matter stated therein.

(Construction and Maintenance of Tramways. Traffic on Tramways)

CONSTRUCTION AND MAINTENANCE OF TRAMWAYS.

Mode of formation of tramway.

11. A tramway shall be constructed and maintained in the manner provided by the order.

Inspection of tramway before opening.

12. A tramway, or portion or extension of, or addition to, a tramway, shall not be opened for public traffic until an engineer appointed in this behalf by the Government has inspected it and certified it to be fit for such traffic.

Agreement between road-authority and promoter as to repair of roadway.

13. Subject to the provisions of any order for the time being in force with respect to the matters mentioned in section 7, sub-section (2), clause (*g*), the road-authority and the promoter may from time to time enter into agreements as to the keeping in repair of the whole or a part of a road traversed by a tramway, and as to the proportion to be paid by either of them of the expense of keeping the road or part in repair.

TRAFFIC ON TRAMWAYS.

Rights of promoters and the public over tramways.

14. (1) The promoter of a tramway shall, subject to the provisions of sub-section (2) and to the other provisions of this Act and of the order, have the exclusive use of the tramway for carriages with flange-wheels or other wheels suitable to run on the rail described in the order as the rail to be used on the tramway :

Provided that nothing in this Act or in the order or any rule made under this Act shall affect the right of any person authorised to use a tramway or railway to pass across a tramway constructed under this Act with carriages having wheels suitable to run on the rail thereof.

(2) The public shall have a right to pass along or across any part of a road along or across which a tramway is constructed, whether on or off the tramway, with carriages not having flange-wheels or other wheels suitable to run on the rail of the tramway : Provided—

(*a*) that this sub-section shall not apply where the tramway is constructed on land the right to the exclusive possession of which has been acquired by the promoter; and

(*b*) that the Government may by an order authorise the construction of a tramway on any part of a road with rails raised above the surface of the road, if it is satisfied that the convenience of the public will not be injuriously affected thereby.

Tolls leviable by promoter or lessee.

15. (1) The promoter or lessee may demand and take, in respect of the tramway, tolls not exceeding the limits specified in or determinable under the order, or, if the order contains no provision in this behalf, then such sums as may from time to time be fixed by the promoter or lessee with the previous sanction of the Government.

(2) A list of all the tolls authorised to be levied shall be exhibited, in such languages as the District Magistrate may direct, in a conspicuous place inside and outside each of the carriages used upon the tramway.

Carriage of dangerous or offensive goods.

16. (1) A person shall not be entitled to carry or to require to be carried, on a tramway constructed under this Act, any goods of a dangerous or offensive nature.

(2) A person taking such goods with him on the tramway shall, before entering the carriage, give notice of their nature to the servant of the promoter or lessee in charge of the carriage.

(3) A person sending such goods by the tramway shall distinctly mark their nature on the outside of the package containing them, or otherwise give notice thereof in writing to the servant of the promoter or lessee with whom he leaves them for the purpose of their being sent by the tramway.

(4) Any servant of the promoter or lessee may refuse to carry upon the tramway a parcel which he suspects to contain goods of a dangerous or offensive nature, and, if any such parcel has been received for the purpose of being carried upon the tramway, may stop the transit thereof until he is satisfied as to the nature of its contents.

(5) Where a servant of the promoter or lessee refuses under sub-section (4) to carry a parcel which has been received for the purpose of being carried upon the tramway, he shall, as soon as may be, give notice of his refusal to the consignor or consignee if he refuses at a time when neither of them is present.

(*Licenses to use Tramways*)

LICENSES TO USE TRAMWAYS.

Grants to third parties of licenses to use tramway in certain events.

17. If, at any time after a tramway or part of a tramway has been for three years opened for public traffic in a circle, the local authority of the circle represents in writing to the Government that the public is deprived of the full benefit of the tramway or of the part thereof, the Government may, if after considering any statement which the promoter or lessee or both may desire to make, and after such further enquiry as it deems necessary, it is satisfied as to the truth of the representation, grant a license to any person to use the tramway conformably to this Act and to the order and the rules made under this Act, subject to the following provisions, namely :—

(*a*) the license shall be for a period not less than one year or more than three years from the date of the license, but the Government may in its discretion renew it;

(*b*) the license shall be to use the whole of the tramway for the time being opened for public traffic, or such part or parts of the tramway as the Government, having regard to the cause for granting the license, thinks fit;

(*c*) the license shall specify the number of carriages which the licensee shall run upon the tramway, the mode in which, and times at which, the carriages shall be run, the tolls to be paid to the promoter or lessee by the licensee for the use of the tramway, and the tolls, being those for the time being leviable by the promoter or lessee, which the licensee may demand and take for the use of his carriages;

(*d*) the licensee and his officers and servants shall permit one person, duly authorised for that purpose by the promoter or lessee to travel free of toll in or upon each carriage of the licensee run upon the tramway for the whole or any part of a journey;

(*e*) any provision of this Act or of the order or rules made under this Act, relating to the functions of a servant of a promoter or lessee shall be construed, so far as may be, as referring to a servant of the licensee; and

(*f*) the Government may revoke, alter or modify the license for any cause sufficient in its opinion to warrant the revocation, alteration or modification thereof.

Licensee to give to promoter or lessee an account of traffic.

18. A licensee shall, on demand, give to an officer or servant authorised in that behalf by the promoter or lessee an exact account in writing, signed by the licensee, of the number of passengers, or number or quantity of goods, conveyed by any and every carriage used by him on the tramway.

Discontinuance of Tramways.

Cessation of powers of promoter and lessee, on discontinuance of tramway.

19. If it is proved to the satisfaction of the Government, at any time after the opening of a tramway for public traffic, that the working of the tramway, or any part thereof, has been practically discontinued, for the space of three months, without a reason sufficient, in the opinion of the Government, to warrant the discontinuance, the Government, if it thinks fit, may, by notification in the official Gazette, declare that the powers of the promoter and of the lessee, if any, in respect of the tramway or the part thereof of which the working has been so discontinued, shall, from the date of the notification, be at an end; and thereupon the said powers shall cease and determine, except in so far as they may be purchased by a local authority in manner by this Act provided.

Powers of road-authority on cessation of powers of promoter.

20. (1) Where a notification has been published under section 19, the road-authority may, at any time after the expiration of two months from the date of the notification, remove the tramway or part of the tramway of which the working has been so discontinued, and use the materials thereof in reinstating the road.

(2) The promoter shall pay to the road-authority the cost incurred by that authority in removing the tramway or the part thereof and in reinstating the road.

(3) The cost shall be certified by an officer of the road-authority, and his certificate, countersigned by the District Magistrate, shall be conclusive proof as to the cost incurred.

(Insolvency of Promoter)

(4) If the promoter does not pay the amount so certified within one month after the delivery to him of the certificate or of a copy thereof, the road-authority may, without any previous notice to the promoter and without prejudice to any other remedy which it may have for the recovery of the amount, sell and dispose of such materials of the tramway or part thereof removed as it has not used in reinstating the road, either by public auction or by private sale, and for such sum or sums, and to such person or persons, as it thinks fit, and may, out of the proceeds of the sale, pay and reimburse itself the amount of the cost aforesaid and of the expenses of the sale, and shall pay over the residue, if any, of the proceeds of the sale to the promoter.

INSOLVENCY OF PROMOTER.

Proceedings in case of insolvency of promoter.

21. (1) If, at any time after the opening of a tramway in a circle for public traffic, it appears to the road-authority or local-authority of the circle that the promoter of the tramway is insolvent, so that he is unable to maintain the tramway, or to work it with advantage to the public, and either of those authorities makes a representation to that effect to the Government, the Government may, if after considering any statement which the promoter may desire to make, and after such further enquiry as it deems necessary, it is satisfied as to the truth of the representation, declare, by notification in the official Gazette, that the powers of the promoter shall, at the expiration of six months from the publication of the notification, be at an end; and the powers of the promoter shall cease and determine at the expiration of that period, except in so far as they may be purchased by a local authority in manner by this Act provided.

(2) Where a notification has been published under sub-section (1), the road-authority may, at any time after the expiration of six months from the date thereof, remove the tramway in the same manner, and subject to the same provisions as to the payment of the cost of the removal and to the same remedy for recovery of the cost, in every respect as in cases of removal under section 20.

(*Purchase of Tramways*).

PURCHASE OF TRAMWAYS.

Future purchase of undertaking by local authority.

22. (1) Where the promoter of a tramway in a circle is not the local authority, the local authority, with the previous sanction of the Government, may—

(*a*) within such limits of time as may be specified in this behalf in the order, or

(*b*) if a time was not specified in the order, then within six months after the expiration of a period of twenty-one years from the date of the order, and within six months after the expiration of every subsequent period of seven years, or

(*c*) within two months after the publication of a notification under section 19 or within six months after the publication of a notification under section 21,

by notice in writing, require the promoter to sell to the local authority his undertaking or the part thereof which is within the circle of the local authority ; and thereupon the promoter shall sell the same upon the terms specified in the order, or if the terms were not specified in the order, then upon the terms of paying the then value of the undertaking or of the part thereof, exclusive of any allowance for past or future profits of the undertaking or any compensation for compulsory sale of other consideration whatsoever.

(2) A requisition shall not be made under sub-section (1) unless the making thereof has been approved by the local authority in manner prescribed.

(3) When a sale has been made under this section, all the rights, powers and authorities of the promoter in respect of the undertaking or part thereof sold or, where a notification has been published under section 19 or section 21, all the rights, powers and authorities of the promoter previous to the publication of the notification in respect of the undertaking or part thereof sold, shall be transferred to the authority to whom the undertaking or part has been sold, and shall vest in, and may be exercised by, that authority in the same manner as if the tramway had been constructed by it under an order made under this Act.

(4) Subject to, and in accordance with, the preceding provisions of this section, two or more local

authorities may jointly purchase an undertaking or so much thereof as is within their circles.

WORKING OF TRAMWAYS OWNED BY LOCAL AUTHORITIES.

Lease of, or working of, tramway by local authority.

23. (1) When a local authority has under the authority of an order completed a tramway, or has under the provisions of this Act or of an order acquired possession of a tramway, it may, by a lease to be approved by the Government, let to any person the right of user of the tramway and of demanding and taking the authorised tolls.

(2) On the determination of a lease the local authority may from time to time let the right for such further term and on such conditions as the Government may approve.

(3) Every lease made under this section shall imply a condition of re-entry if at any time after the making thereof it is proved to the satisfaction of the Government that the lessee has practically discontinued the working of the tramway leased, or of any part thereof, for the space of one month without a reason sufficient, in the opinion of the Government, to warrant the discontinuance.

(4) Notice of the intention of the local authority to make a lease shall be given in manner prescribed.

(5) If the local authority cannot by means of a lease obtain what it deems to be a fair rent for the tramway, it may itself, with the previous sanction of the Government and for such term as the Government directs, place and run carriages upon the tramway, and demand and take the authorised tolls in respect of the use of the carriages.

RULES.

Power to make rules.

24. (1) In addition to any other power to make rules expressly or by implication conferred by this Act the Government may make rules consistent with this Act—

(*a*) as to the form in which an application for an order shall be made ;

(*b*) as to the costs to be paid by an applicant in respect of an order and the time when, and the place where, those costs shall be paid;

(*c*) as to the payment of money or lodgement of securities, by way of deposit, by the applicant for an order before the order is published under section 6, sub-section (4), or a further order is made under section 8; the investment of money so paid; the disposal of interest or dividends from time to time accruing due on money or securities so paid, lodged or invested; the application of the money or securities or the produce thereof to the discharge of any liability incurred by the promoter; and the forfeiture, repayment or return of the money or securities;

(*d*) as to the plans and sections of any works to be deposited by applicants for orders or by promoters;

(*e*) for regulating the use of steam-power or any other mechanical power on a tramway;

(*f*) as to any matter specified in section 7, sub-section (2), clauses (*c*), (*d*), (*e*), (*j*) and (*k*), as a matter which may be provided for in an order, when that matter has not been so provided for, or has not, in the opinion of the Government, been effectually so provided for;

(*g*) as to the periodical submission, by promoters, lessees and licensees, of accounts of traffic and receipts to the Government or as the Government directs, and as to the forms in which those accounts are to be submitted;

(*h*) as to the accidents of which report is to be made to the Government or as the Government directs;

(*i*) as to any matter respecting which rules may be made under this section by a local authority or a promoter or lessee; and

(*j*) generally, as to any other matter or thing in respect of which it may seem to the Government to be expedient to make rules for carrying out the purposes of this Act.

(2) A local authority may, from time to time, with the previous sanction of the Government, make rules consistent with this Act and with the order and

any rules made by the Government under this Act for regulating—

(*a*) the rate of speed to be observed in travelling upon a tramway within the circle of the local authority ;

(*b*) the use of animal power on the tramway ;

(*c*) the distances at which carriages using the tramway are to be allowed to follow one after the other ;

(*d*) the stopping of carriages using the tramway and the notice to be given to the public of their approach ;

(*e*) the manner in which carriages using the tramway after sunset and before sunrise are to be lighted ;

(*f*) the traffic on roads along or across which the tramway is laid ;

(*g*) the number of passengers which may be carried in any carriage ;

(*h*) the licensing and control of drivers, conductors and other persons having charge of the carriages of the promoter or lessee or a licensee ; and

(*i*) generally, the mode of use of the tramway.

(3) The promoter or lessee of a tramway may, from time to time, with the previous sanction of the Government, make rules consistent with this Act and with the order and any rules made under this Act—

(*a*) for preventing the commission of any nuisance in or upon any carriage, or in or against any premises, belonging to him ; and

(*b*) for regulating the travelling in any carriage belonging to him.

(4) The Government may cancel any rule made by a local authority or by a promoter or lessee under this section.

Power to impose penalty by rule.

25. The authority making any rule under section 24 may direct that a breach of it shall be punishable with fine which may extend—

(*a*) if the authority making the rule is the Government, to two hundred rupees, and

(*b*) if that authority is a local authority or a promoter or lessee, to twenty rupees ; and when the breach is a continuing breach, with a further fine which may extend—

(*c*) if the authority making the rule is the Government, to fifty rupees, and

(*d*) if that authority is a local authority or a promoter or lessee, to five rupees, for every day after the first during which the breach continues.

Procedure for making, and publication of rules.

26. (1) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made, in the case of rules made by the Government, in such manner as may in its opinion be sufficient for giving information to persons interested, and, in the case of rules made by a local authority or by a promoter or lessee, in manner prescribed.

(3) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration.

(4) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive proof that it has been duly made.

OFFENCES.

Penalty for failure of promoter, lessee or licensee to comply with Act or order.

27. If a promoter—

(*a*) constructs or maintains a tramway otherwise than in accordance with the order, or

(*b*) opens the tramway for traffic, or permits it to be so opened, before it has been inspected and certified in manner required by section 12, or

(*c*) fails to observe any requirement or condition of the order for neglect or breach whereof no penalty has been expressly provided in the order,

or if a promoter, lessee or licensee runs a carriage on a tramway otherwise than in accordance with the order, he shall (without prejudice to the enforcement of specific performance of the requirements of this Act or of the order, or to any other remedy which may be obtained against him in a Court of Civil Judicature), on complaint made by the Government or by the local authority or road-authority or by the District Magistrate or,

with the previous sanction of the District Magistrate, by any person injuriously affected by the act or omission, be punished with fine which may extend to two hundred rupees, and in the case of a continuing offence to a further fine which may extend to fifty rupees for every day after the first during which the offence continues to be committed.

Penalty for obstructing promoter in exercise of his powers.

28. If any person without lawful excuse, the burden of proving which shall lie upon him, wilfully obstructs any person acting under the authority of the promoter in the lawful exercise of his powers in constructing or maintaining a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, he shall be punished with fine which may extend to fifty rupees.

Penalty for interfering with tramway.

29. If any person without lawful excuse, the burden of proving which shall lie upon him, wilfully does any of the following things, namely :—

(*a*) interferes with, removes or alters any part of a tramway constructed under this Act or of the works connected therewith, or

(*b*) places or throws upon or across any such tramway any wood, stone, refuse or other thing, or

(*c*) does anything in such a manner as to obstruct any carriage using any such tramway, or

(*d*) abets within the meaning of the Indian Penal Code the doing of, or attempts to do, anything mentioned in clause (*a*), clause (*b*), or clause (*c*),

he shall (without prejudice to any other remedy which may be obtained against him in a Court of Civil Judicature) be punished with fine which may extend to one hundred rupees.

Penalty for using tramway with carriage having flange-wheels.

30. If any person, except under a lease from, or by agreement with, the promoter, or under license from the Government granted under this Act uses on a tramway, otherwise than as permitted by section 14, a carriage having flange-wheels or other wheels suitable to run on the rail of the tramway, he shall be punished with fine which may extend to two hundred rupees.

(Offences)

Penalty for evading payment of proper toll.

31. (1) If any person travelling or having travelled in a carriage of the promoter or lessee or of a licensee evades or attempts to evade payment of toll, or if any person having paid toll for a certain distance wilfully proceeds in any such carriage beyond that distance and does not pay the additional toll for the additional distance or attempts to evade payment thereof, or if any person wilfully refuses or neglects on arriving at the point to which he has paid toll to quit the carriage, he shall be punished with fine which may extend to ten rupees.

(2) When a person commits an offence under this section and refuses on demand of a servant of the promoter, lessee or licensee to give his name and residence, or gives a name or residence which the servant has reason to believe to be false, he may be arrested and taken to the nearest police station by the servant or any person whom the servant may call to his aid.

(3) When the person is taken to the police station he shall with the least possible delay be forwarded to the nearest Magistrate, unless his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate, if so required.

Penalty for taking or sending dangerous or offensive goods without giving notice.

32. If any person takes or sends by a tramway any goods of a dangerous or offensive nature without giving the notice required by section 16, he shall be punished with fine which may extend to fifty rupees.

Penalty for licensee not giving to promoter or lessee an account of traffic or giving false account.

33. (1) If a licensee fails on demand to give the account mentioned in section 18, or, with intent to evade the payment of tolls, gives a false account when he is called upon to give an account under that section, he shall be punished with fine which may extend to fifty rupees.

(2) The fine shall be in addition to any tolls payable by the licensee to the promoter or lessee in respect of the passengers or goods conveyed by the carriage or carriages used by the licensee on the tramway.

Saving of prosecution under other laws.

34. Nothing in this Act shall prevent a person from being prosecuted under any other law for an act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under that other

law to any other or higher punishment or penalty than that provided by this Act or the rules made under it : Provided that a person shall not be punished twice for the same offence.

SETTLEMENT OF DIFFERENCES.

Differences between promoters or lessees and authorities.

35. (1) If any difference arises between the promoter or lessee on the one hand and the Government or the local authority, or the road-authority. or a person having the charge of any sewers, drains, telegraph-lines, gas-pipes, water pipes, or other things in or on land occupied by the tramway, on the other hand, with respect to any interference or control exercised or claimed to be exercised by, or on behalf of, either party by virtue of this or any other Act, or of the order or the rules made under this Act, or with respect to the propriety of, or the mode of, the execution of any work, or with respect to any compensation to be made by or to the promoter or lessee, or on the question whether any work is such as ought reasonably to satisfy the Government or the road-authority or both, or with respect to any other subject or thing regulated by, or comprised in, this Act or the order or the rules made under this Act, and not otherwise expressly provided for therein, the matter in difference shall, except where the parties elect to proceed under section 523 of the Code of Civil Procedure, be settled, on the application of either party, by a referee.

(2) Where the difference is—

(*a*) between the promoter or lessee on the one hand and the Government, either as such or as the road-authority, on the other, or

(*b*) between the promoter on the one hand and the local authority on the other, with respect to the sum to be paid by the local authority for an undertaking or part of an undertaking which that authority has required the promoter to sell under section 22,

the referee shall be the District Court within the jurisdiction of which the tramway is situate, or, where the tramway is within the jurisdiction of more than one District Court, the District Court within the jurisdiction of which the greater part of the tramway is situate.

(3) In other cases the referee shall be appointed by the Government.

(4) Except where the referee is the District Court, the powers and procedure of the referee may be prescribed.

(5) In the case of a difference between a promoter on the one hand and a local authority on the other, with respect to the sum to be paid by the local authority for an undertaking or part of an undertaking which that authority has required the promoter to sell under section 22, an appeal shall lie to the High Court from the award of the referee as from an original decree of the District Court.

(6) In the case of every other difference the award of the referee shall be final.

Recovery of Tolls.

Recovery of moneys due from promoters and in certain cases, from lessees.

36. Any of the following moneys, namely, any rent due to a local authority from a lessee, any penalty recoverable from a promoter or lessee under an order, any sum payable by a promoter or lessee under an award of a referee the cost of the performance under this Act by the Government or by a local authority or road-authority of any work required by this Act or by an order to be done by a promoter, and the cost incurred by a road-authority in removing a tramway and reinstating a road under this Act may, without prejudice to any other remedy that the authority to which the money is due may have by suit or otherwise, be recovered by that authority, on application made in this behalf to the Deputy Commissioner, as if the sum due were an arrear of land revenue due by the promoter or lessee or his surety (if any) :

Provided that nothing in this section shall authorise the arrest of the promoter or lessee or his surety in execution of any process issued by the Deputy Commissioner.

Recovery of tolls from licensees.

37. (1) If a licensee fails to pay on demand the tolls due for the use of a tramway, the promoter or lessee to whom the tolls are due may, without prejudice to the remedy which he may have by suit, apply to a Magistrate to recover the amount of the tolls, and the Magistrate may, after giving notice to the licensee if possible and allowing him an opportunity of being heard, proceed to recover the amount by distress and sale of any carriages or other

movable property of the licensee which may be found on the tramway or on premises connected therewith.

(2) When a licensee has failed to pay on demand the tolls due from him, the promoter or lessee to whom the tolls are due may seize any carriage or other movable property of the licensee on the tramway or on premises connected therewith, and detain the same for forty-eight hours unless the tolls are sooner paid.

(3) When application is made to a Magistrate under sub-section (1), he may make an *interim* order of distraint pending his final decision.

Recovery of tolls from passengers.

38. Any toll due to a promoter, lessee or licensee from a passenger may be recovered either by suit or, on application to a Magistrate having jurisdiction within any local area in which any part of the tramway is laid, by distress and sale of any movable property belonging to the passenger within the local limits of the jurisdiction of the Magistrate.

SAVINGS.

Promoter to have right of user only.

39. (1) Notwithstanding anything contained in this Act, or in an order or any rule made under this Act, a promoter shall not acquire any right other than that of user only over a road along or across which he lays a tramway, nor shall anything contained in this Act, or in an order or any rule made under this Act, exempt the promoter of a tramway, or any other person using the tramway, from the payment of such charges as may lawfully be levied in respect of the use of a road or bridge along or across which the tramway is laid.

(2) The Government may, if it thinks fit, fix rates at which a promoter, lessee or licensee may compound for the charges payable in respect of the use of a road or bridge.

Saving of power over roads traversed by tramways.

40. (1) Nothing in this Act, or in an order or any rule made under this Act, shall take away or abridge any power which a road-authority, local authority or other person has by law to break up, widen, alter, divert or improve a road, railroad or tramway along or across which a tramway is laid.

(Supplemental Provisions)

(2) The road-authority, local authority, or other person executing any work referred to in sub-section (1) shall not be liable to pay to a promoter, lessee or licensee any compensation for injury done to a tramway by the execution of the work or for loss of traffic occasioned by the reasonable use of any power lawfully exercised for the execution thereof.

Saving of power of local authority and police to regulate traffic on roads.

41. Nothing in this Act, or in an order or any rule made under this Act, shall affect the powers of a local authority or of a Magistrate or police officer to regulate the passage of traffic along or across a road along or across which a tramway is laid ; and the authority, Magistrate or officer aforesaid may exercise its or his powers as well on as off the tramway and with respect as well to the traffic of a promoter, lessee or licensee as to the traffic of other persons.

SUPPLEMENTAL PROVISIONS.

Promoters, lessees and licensees to be responsible for all injuries.

42. A promoter, lessee or licensee shall be answerable for all injuries happening through his act or default, or through the act or default of any person in his employment, by reason or in consequence of any of his carriages or works and shall save harmless all authorities and persons collectively and individually, and their officers and servants, from all damages and costs in respect of injuries so happening.

Want of funds not a sufficient reason for default.

43. For the purposes of this Act, want of funds shall not be deemed to be a sufficient reason for the suspension of the construction, or the discontinuance of the working, of a tramway by a promoter or lessee.

Power to exempt from municipal taxation.

44. When a tramway is constructed under this Act, within the limits of a municipality, the Government may exempt the animals, plant, rolling-stock, yards, workshops, engine-sheds and depots of the promoter, lessee or licensee, for such period as it thinks fit, from all or any municipal taxes leviable within those limits.

Application by local authorities of local funds to tramways.

45. (1) The fund to or with the control or management of which the local authority of a municipality or district is entitled or entrusted shall, notwithstanding anything in any enactment respecting the purposes to which

that fund may be applied, be applicable, subject to the control of the Government, to the payment of expenses incidental to the exercise of the powers and functions which may be vested in or exercised by a local authority under this Act.

(2) The fund shall also be applicable, with the previous sanction of the Government, to a guarantee of the payment of interest on money to be applied, with the concurrence in writing of the local authority, within the limits of the local area under its control, to any of the purposes to which the fund might be applied by the local authority under sub-section (1).

Prohibition of construction of tramways except under this Act.

46. (1) No tramway shall be constructed for public traffic except in pursuance of an order made under this Act.

(2) A person constructing a tramway in contravention of sub-section (1) of this section,

or maintaining or using for public traffic a tramway otherwise than in pursuance of an order made under this Act, shall be liable, on the complaint of the Government or local authority, to double the penalty to which a promoter acting otherwise than in accordance with an order is liable under section 27.

Transfer of control on exclusion of local area from circle of local authority.

47. If at any time a local area comprising a tramway to which this Act or any part thereof or any rule thereunder applies, ceases to be included in the circle of a local authority, the functions of that authority under this Act or the part thereof or the rule thereunder and under the order (if any), shall, in respect of that local area, devolve on the Government or, if the Government so directs, on the local authority of the circle in which the tramway has been included.

Special provision in regard to tramways constructed by Government.

[1][**47A.** (1) Notwithstanding anything contained in this Act, it shall be lawful for the Government at any time—

(*a*) to construct a tramway within any area to be worked by steam or other mechanical or electrical power;

1. Inserted by Act X of 1916.

(Supplemental Provisions)

(*b*) to retain the management and maintenance of any such tramway, or to entrust the same in whole or in part to any agency it thinks fit, or to resume the same from such agency ;

(*c*) to prescribe, by notification in the official Gazette, rules having the force of law, for the proper management and maintenance of any such tramway and for the regulation of all matters and things connected therewith, and to affix a penalty not exceeding two hundred rupees for the infringement of any such rule.

(2) The provisions of the preceding sections of this Act shall not apply to any such tramway as is mentioned in sub-section (1) except to the extent, if any, to which the same may be applied by Government from time to time, by notification published in the official Gazette, and subject to such modifications, if any, as may be directed in such notification.]

Powers of Government exercisable from time to time.

48. All powers conferred by this Act on the Government may be exercised from time to time as occasion requires.